

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TONY ASBERRY,
Plaintiff,

v.

SALINAS VALLEY STATE PRISON
FACILITY-D MALE DENTIST “G,”
Defendant.

Case No. [19-cv-06311-YGR](#) (PR)

**NOTICE REGARDING INABILITY TO
SERVE SOLE DEFENDANT SALINAS
VALLEY STATE PRISON FACILITY-D
MALE DENTIST “G”**

This Order addresses issues regarding service in the above-captioned action. Service has been ineffective on Defendant Salinas Valley State Prison (“SVSP”) Facility-D Male Dentist “G.” The Court has been informed by SVSP Litigation Coordinator G. Lopez that the reason service was ineffective was because SVSP “need[s] [the] name of the person who is being served.” Dkt. 26 at 1.


As Plaintiff is proceeding *in forma pauperis*, he is responsible for providing the Court with the full names and current addresses for all Defendants so that service can be accomplished. *See Walker v. Sumner*, 14 F.3d 1415, 1422 (9th Cir. 1994); *Sellers v. United States*, 902 F.2d 598, 603 (7th Cir. 1990). While Plaintiff may rely on service by the United States Marshal, or in this case, the procedure for requesting a defendant to waive the service requirement, “a plaintiff may not remain silent and do nothing to effectuate such service.” *Rochon v. Dawson*, 828 F.2d 1107, 1110 (5th Cir. 1987). When advised of a problem accomplishing service, a *pro se* litigation must “attempt to remedy any apparent defects of which [he] has knowledge.” *Id.* Pursuant to Federal Rule of Civil Procedure 4(m), if a complaint is not served within 90 days from the filing of the complaint, it may be dismissed without prejudice for failure of service. Fed. R. Civ. P. 4(m) (providing that if service of the summons and complaint is not made upon a defendant in 90 days after the filing of the complaint, the action must be dismissed without prejudice as to that defendant absent a showing of “good cause”); *see also Walker*, 14 F.3d at 1421-22 (prisoner failed to show cause why prison official should not be dismissed under Rule 4(m) because prisoner did not prove that he provided marshal with sufficient information to serve official).

1 No later than **twenty-eight (28) days** from the date of this Order, Plaintiff must provide
2 the Court with the full name of Defendant SVSP Facility-D Male Dentist “G.” Plaintiff should
3 review the federal discovery rules, Rules 26-37 of the Federal Rules of Civil Procedure, for
4 guidance about how to determine the full name of this Defendant.

5 If Plaintiff fails to provide the Court with the full name of Defendant SVSP Facility-D
6 Male Dentist “G” within the twenty-eight-day deadline, the complaint (in which only claims
7 against this Defendant remain) will be dismissed without prejudice under Rule 4(m).

8 IT IS SO ORDERED.

9 Dated: May 5, 2021


10 JUDGE YVONNE GONZALEZ ROGERS
11 United States District Judge
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